

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20555

In the Matter of)
Accelerating Wireless Broadband Deployment by) WT Docket No. 17-79
Removing Barriers to Infrastructure Investment)

COMMENTS

I request an extension of deadline for comments and reply comments on this proceeding to allow time for the public to adequately provide critical input to the Commission on the wide range of issues involved in this proceeding.

47 U.S.C. Title 47, Chapter 5, SUBCHAPTER I

§151. Purposes of chapter; Federal Communications Commission created

For the purpose of regulating interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex, a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges, for the purpose of the national defense, for the purpose of promoting safety of life and property through the use of wire and radio communications,...

The FCC is chartered to regulate telecommunications so that the people may have communication at reasonable price, and safety of life and property can be promoted. Yet in this proceeding and in 17-84, the people, the states, and local municipal governments are the ones being regulated. That is a flipped mandate.

The opening summary of the Federal Register NPRM states –

“the Federal Communications Commission (Commission) seeks comment on proposals to reduce the regulatory impediments to wireless network infrastructure investment and deployment.”

The FCC is promoting investment and deployment of wireless network infrastructure. However, “promotion” other than safety of life and property, is not in Section 151, and certainly not promotion of investment. Further, the infrastructure which the FCC promotes is inherently unsafe. That violates the Commission’s mandate, and the Commission refuses to address this critical safety issue. In addition, the Commission falsely promotes the wireless industry and its devices as necessary for emergency response, but admits this technology cannot accurately pinpoint 911 caller location. And this technology is completely vulnerable to power outages, limited battery life, low fidelity, and disasters, in marked contrast to so-called legacy copperline landlines.

Who is the FCC naming as barriers to investment and regulatory impediments to deployment? They are the very people the FCC was created to serve and their elected representatives which are the actual resources for public safety. Post-1996 Telecom Act FCC has attempted to re-imagine itself, freed from the restraints of its mandate, and turned the public into its enemy.

The focus of this proceeding is streamlining -- eliminating the rules that stand in the way of the FCC and telecommunications companies. If necessary, the FCC proposes eliminating the regulatory authority of local municipal governments, created by the people to protect their interest. By measures like these in the present proceeding and in past proceedings, the FCC has abandoned its mandate of industry regulation and now imposes regulations on the public and local governments. This goes beyond regulatory overreach and is simply abuse of power.

The NPRM talks about "unnecessary and potentially impermissible delays and burdens on wireless infrastructure deployment".

It states, "The Commission seeks information on the prevalence of barriers, costs thereof, and impacts on investment in and deployment of wireless services, including how such costs compare to the overall costs of deployment."

The Commission mentions not one word about the rapidly multiplying barriers it creates with this infrastructure. This infrastructure cannot comply with the Americans with Disabilities Act as it erects barrier after barrier for the EMF-disabled. The 5G roll-out itself is so intensive, so comprehensive, that there is nowhere that an EMF-disabled person can go to escape. This infrastructure will be mounted on utility poles everywhere, including outside their homes. They will be forced to shelter in place in shielded homes, with no hope of going outside to shop, to go to the doctor, to visit family, to do any essential things. The FCC is refusing to address these enormous and impossible costs for many members of the public. They are turned into prisoners, and the Commission is the jailer.

There is no accommodation for those disabled by electromagnetic sensitivity (EMS). The commission won't even recognize this disability, in stark contrast to the Department of Labor, the U.S. Access Board, and the Social Security Administration. Because of those blinders, there aren't even white zones or white paths in the Commission's plans. The financial and personal costs to those injured and disabled by this radiation and from wireless infrastructure deployment are never mentioned by the Commission. Instead, the Commission complains about "costs" of deployment, "burdens" to wireless companies, and "barriers" to deployment. The EMF/RF-injured public is regarded as an impediment and a barrier by the Commission, and all attempts to bring the Commission back to its mandate of promoting public safety are vigorously opposed.

The Commission asks "which steps have been most effective in efficiently resolving tensions among competing priorities of network deployment and other public interest goals"? I ask, "How have tensions not been resolved and public interest goals not been considered?" I ask the

Commission to put a mirror in front of itself. The blame is not elsewhere when the Commission tries to cram unwanted, ill-advised, and downright unsafe technologies down the throats of unwilling communities. The Commission takes its regulations and beats the public and their elected representatives with those regulations, as it allows the industry to inundate the airwaves with its marketing propaganda. It is the enforcer and the enabler of the wireless industry. How did this happen?

In “1. “DEEMED GRANTED” REMEDY FOR MISSING SHOT CLOCK DEADLINES”, the FCC sets new heights for its regulatory overreach and abandonment of its mandate. There is the arrogant “irrebuttable presumption”: “Thus, the Commission's determination of the reasonable time frame for action (i.e., the applicable shot clock deadline) would “set an absolute limit that—in the event of a failure to act—results in a deemed grant.” Let me again state that what the Commission is discussing is an inherently unsafe and unsightly infrastructure which it is mandating on municipalities in a fashion that can only be described as merciless.

In “Section 8. Lapse of State and Local Governments' Authority”, the FCC goes further. It proposes:

The Commission seeks comment on whether the Commission should interpret this phrase as meaning that if a locality fails to meet its obligation under Section 332(c)(7)(B)(ii) to “act on [a] request for authorization to place, construct, or modify personal wireless facilities within a reasonable period of time,” then its “authority over decisions concerning” that request lapses and is no longer preserved. Under this interpretation, by failing to act on an application within a reasonable period of time, the agency would have defaulted its authority over such applications (i.e., lost the protection of Section 332(c)(7)(A), which otherwise would have preserved such authority), and at that point no local land-use regulator would have authority to approve or deny an application. Arguably, the Commission could establish that in those circumstances, there is no need for an applicant to seek such approval. The Commission seeks comment on this interpretation and on the desirability of taking this approach.

Carte blanche. The open gate. The henhouse laid bare. “No need for an applicant to seek such approval” and therefore, cell towers whenever and wherever desired by the wireless telecommunications industry, with the Commission holding the gate open for them.

For the public already suffering from the onslaught of the FCC’s promotional acts, this appalling proposal starkly shows the allegiance of the Commission and its lack of rationality. There is nothing public-facing about your proposals. They are business deals with the Commission’s partners. The FCC has abandoned its mandate and gone off freelancing on its own.

The Commission asks, “What is a reasonable period of time?” That does depend on the issue in question. For instance, the RF standards proceeding was taking comments in 2013. Four years of silence have passed, with a great deal of new research being published in the meantime. Mechanisms of harm are being clarified, the impacts specific to 5G frequencies are being discussed including on the sweat ducts (at an NIH-cosponsored conference, no less) and human

neurological functioning, and many biological impacts are being demonstrated. And there is the NTP study, which vividly displayed the carcinogenicity of the microwave radiation from wireless devices after only 2 years of exposure. A reminder: the NTP found 1 in 12 male rats developed malignant glioma (brain tumors), malignant schwannoma (heart tumors), or precancerous lesions from 9 cumulative hours of exposure (not 24 hours a day), and shielded from other exposures, while none of the controls developed these cancers in their cages, also shielded (it raises the question of how many lab animals develop cancer just from the ambient RF in the laboratories?). Clearly, “reasonable period of time” is relative for the Commission, depending on whether it is something that emanates from their mandate or whether it is from their new chosen path.

What is a reasonable period of time for the Commission to adopt regulations on the industry, regulations that benefit the public? To set federal standards based on independent science and biological effects that even the U.S. military admits to finding?

Repeatedly in this proceeding, the Commission wants to expedite review, but it does not apply this urgency or necessity to itself in matters of public and environmental health and safety.

In #14 “Are applicants encountering requirements to comply with codes that are not reasonably related to health and safety?” This makes no sense. The FCC refuses to allow health and safety to govern siting. Period. The Commission refuses to even talk about health and safety, and has gone so far as to confiscate press credentials from a reporter before a hearing who wanted to talk about health and safety with a member of the public.

The Commission requires local governments to accept compliance projections only . Compliance projections have absolutely nothing to do with health and safety. Compliance does not equal health and safety. Furthermore, cell towers are routinely so far out of compliance as to exceed FCC thermal limits, and the Enforcement Branch does nothing – nothing – when this is brought to its attention. The Commission prohibits local governments from requiring compliance monitoring by wireless carriers. So, when the Commission talks about health and safety, it is just a ruse and a smoke screen. This is yet another example of how the FCC functions as a tool of the industry it is mandated to regulate.

The Commission continues, “To the extent these conditions present challenges to deployment, are there steps the Commission can and should take to address such challenges?”

Many members of the public are waiting for the Commission and elected officials to address the impacts of wireless deployment on public health and the environment. These impacts are a challenge to the Commission’s deployment agenda. The steps the Commission must take are to face these health and safety issues. The greatest need and priority is for the FCC to address the real world impacts of its decisions and the creation of a whole new class of disabled -- the EMF-disabled. Health and safety issues are legitimate challenges to the Commission’s deployment, and the liability costs only rise with time.

“Robust wireless services” or robust public health? It doesn’t seem they can co-exist. So what type of investment is the FCC engaged in? This isn’t a strong foundation or something that leads to a thriving future.

“Commenters should identify the specific entities engaging in such actions and describe the effect of such restrictions on parties’ ability to deploy or upgrade network facilities and provide service to consumers.”

What type of consumer service is it if it harms people, and not even informed consent is provided for the products peddled?

“The Commission proposes to take any additional actions necessary, such as issuing an order or declaratory ruling providing more specific clarifications of the moratorium ban or preempting specific State or local moratoria. Commenters should discuss the benefits and detriments of any such additional measures and the Commission’s legal authority to adopt them.”

By these statements, the Commission merely provides more evidence of what and who it represents.

20. “Some argue that NEPA compliance imposes extraordinarily high costs on wireless providers and results in significant delays.”

What about the extraordinarily high costs to the public? The Commission is tasked with helping the public, not the wireless companies. The environmental review process is supposed to lay bare the impacts and the facts. It is obvious from the continued deployment of this technology that NEPA is not nearly rigorous or transparent enough.

and

(III) NEPA PROCESS

44. “The Commission seeks comment on ways to improve and further streamline its environmental compliance regulations while ensuring that the Commission meets its NEPA obligations. For example, should the Commission consider new categorical exclusions for small cells and DAS facilities?”

The Commission has already effectively excluded DAS and small cells by proposing to mandate their installation everywhere. For the Commission, it seems there are few or no issues of interest or impact.

The section on tribal issues is chilling, given American history. The Army gave plague-infested blankets to 1st Nation people as “gifts”. There were the “Indian” wars. American leaders dictated to tribes how and where they should live, and then took their land again if the government or some entity wanted it. Here we go again.

#41 deals with Positive Train Control. This dangerous system is causing seizures to people that are near tracks when the signals occur. This is happening in Southern California. This system must be taken offline before it causes more harm. It is possible that due to the extreme effects, some people have even died. What is the Commission planning to do about this?

47. “The Commission seeks comment on whether additional steps to tailor Section 106 review for pole replacements would help serve the Commission's objective of facilitating wireless facility siting...”

That clarifies this whole proceeding, and that objective supersedes all else.

Under (II) RIGHTS OF WAY, “The Commission also recognized, however, that transportation corridors are among the areas where customer demand for wireless service is highest, and thus where the need for new facilities is greatest.”

Wireless facilities create access barriers for the EMF-disabled. They interfere with a person’s ability to travel freely.

And under #69

“The Commission has held in the past that the terminology in Section 253(a) quoted above ‘recognizes that State and local barriers to entry could come from sources other than statutes and regulations’ and ‘was meant to capture a broad range of state and local actions’ that could pose barriers to entry—including agreements with a single party that result in depriving other parties of access to rights of way.”

Yet, the Commission is not considering that their actions are depriving the public of access to the right of way. The FCC’s concern is about “barriers to entry” and “depriving access” for companies, not for the public, not for the EMF-disabled, despite the Americans with Disabilities Act.

“The Commission invites commenters to identify any States or local governments that have imposed restrictions on the installation of new facilities or the upgrading of existing facilities in public rights of way, and describe those restrictions and their impacts.”

It seems that the Commission has taken on policing powers on behalf of the wireless industry. What legal grounds does the Commission have to do this? Has Congress conferred these powers on the Commission or has the Commission independently conferred these powers on itself?

In #72, the Commission addresses undergrounding of utilities without regard to municipal realities. Contrary to Commission beliefs, communities underground utilities to make their neighborhoods more attractive. Putting persecutory motives on this process is ridiculous.

“Could ‘undergrounding’ plans ‘prohibit or have the effect of prohibiting’ service by causing suitable sites for wireless antennas to become scarce?”

This “prohibit” standard has been yanked out of context by the Commission. The context was communication, not the ability of a person to download a cat video or porn at a faster speed. DAS and small cells are generally about capacity, not coverage. Prohibiting service meant basic coverage (and not even seamless coverage).

73. “Section 332(c)(7)(B)(i)(I) prohibits States and localities from unreasonably discriminating among providers of ‘functionally equivalent services.’ The Commission seeks comment on whether parties have encountered such discrimination, and ask that they provide specific examples. The Commission also seeks comment on what constitutes ‘functionally equivalent

services' for this purpose. For instance, should entities that are considered to be utilities be viewed as an appropriate comparison? For the limited purpose of applying Section 332(c)(7)(B)(i)(I), can wireless and wireline services be considered 'functionally equivalent' in some circumstances? Which types of discrimination are reasonable and which are unreasonable?

Electric utilities are not functionally equivalent at all to telecommunications facilities. Wireless and wireline services are not functionally equivalent. They have different modes of service, and they have different impacts. Copperline wireline is superior in reliability, quality of voice transmission, in safety, and for 911 and emergencies.

1. NEED FOR, AND OBJECTIVES OF, THE PROPOSED RULES

75. "In this NPRM, the Commission examines how it may further remove or reduce regulatory impediments to wireless infrastructure investment and deployment in order to promote the rapid deployment of advanced mobile broadband service to all Americans."

The Commission has to honestly assess: do all Americans want this? The answer is no. The Commission is acting as the marketing and policing department of the wireless industry. Promoting broadband is not the fundamental function of the FCC. The Commission is more than avoiding its responsibility to regulate this industry. It is actually refusing to do so. As a result, the public is terribly harmed.

The statement near the end of the NPRM displayed the Commission's belief about itself and its willful ignorance:

"6. FEDERAL RULES THAT MAY DUPLICATE, OVERLAP, OR CONFLICT WITH THE PROPOSED RULES

118. None."

None?

Apparently "none" of the attorneys at the FCC or its commissioners and staff have heard of the Americans with Disabilities Act. The Commission has been and continues to put enormous barriers in front of a growing class of disabled people in the U.S. and has been responsible for growing discrimination by ignoring this class. The amendments to the original ADA have made clear that discrimination must be cured, but the FCC has taken no action. Instead, it looks to impose cell towers everywhere, including next to homes. The ADA repeatedly talks about access and improved access, But those who are disabled by electromagnetic sensitivities are decreasingly able to use even their own homes. More and more are forced to flee, leaving jobs, families, and everything they care about simply to survive. What sort of economic cost is America already facing due to the Commission's discriminatory and barrier-creating policies? What about the public health toll?

In addition, there is the U.S. Constitution, and despite taking an oath to uphold and defend the Constitution, the Commission and its staff seem grossly ignorant of Constitutional protections for all Americans. "Promoting the general welfare" sounds like the FCC's charter and starts with health and safety, not wireless broadband. Protections against search and seizure of self and

property is null and void when the FCC mandates cell towers broadcasting into ones home, especially with cell towers installed on utility poles for 5G.

Unfortunately, the public is virtually defenseless against this assault. The FCC long ago left its mandate to represent the public. Marketing, more than “consumer demand”, is what pushes this craze. The impacts grow, and the evidence pushed under the carpet has grown so large that the public is finding out. What happens when the public learns it has been duped? Will the Commission address these critical issues before it’s too late?

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